

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 72

AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-1-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The commission shall in all controversial proceedings heard by it be an impartial fact-finding body and shall make its orders in such cases upon the facts impartially found by it. The commission shall in no such proceeding, during the hearing, act in the role either of a proponent or opponent on any issue to be decided by it. All evidence given in any such proceeding shall be offered on behalf of the respective parties to, or appearing in, the proceeding and not in the name or behalf of the commission itself.

(b) Any report, audit, examination, or analysis prepared by the commission staff at the request or direction of the commission may be made a part of the record of the proceeding, subject to cross-examination by any party of the person who performed or directed the preparation of the report, audit, examination, or analysis.

(c) If in any such proceeding the public interest is not otherwise adequately represented by counsel, in the opinion of the commission, it shall be the duty of the utility consumer counselor, if requested by the commission, to make adequate preparation for the presentation of the interests of the public in such proceeding and ~~he~~ **the utility consumer counselor** shall at the hearing represent the public interests therein involved.

(d) However, nothing in this section prevents the commission from

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instituting, prosecuting, hearing, or determining any investigation or proceeding which it is authorized to do, or make, on its own motion by any law with the administration of which it is charged.

(e) Except as otherwise provided in this chapter, no member or employee of the commission assigned to make findings of fact and conclusions of law in a formally docketed evidentiary proceeding may communicate in connection with any issue of fact or law disputed in that proceeding with any party or ~~his~~ **any party's** representative, except on notice and with opportunity for all parties to participate.

(f) In addition to holding an executive session in the instances described in IC 5-14-1.5-6.1(b), the commission may hold an executive session to deliberate on a proposed order if all the following are satisfied:

(1) All evidence on the matter has been received by the commission.

(2) The deliberations are preparatory to taking final action on an order subject to judicial review.

(3) Only the following are permitted to participate in the executive session:

(A) Commission members.

(B) Commission employees who are formally assigned to advise or assist in preparing the order, including the commission's technical staff and attorneys.

IC 5-14-1.5-5, IC 5-14-1.5-6.1, and IC 5-14-1.5-7 apply to an executive session held under this subsection.

(g) A person who violates this section commits a Class C infraction.

SECTION 2. An emergency is declared for this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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